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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,344	03/19/2004	Remy Oddo	40128/01401	7004

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FAY KAPLUN & MARCIN, LLP  
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NEW YORK, NY 10038

EXAMINER

JACKSON, ANDRE L

ART UNIT PAPER NUMBER

3677

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/804,344	Applicant(s) ODDO ET AL.	
	Examiner Andre' L. Jackson	Art Unit 3677	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 January 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-14 and 16-21 is/are rejected.
- 7) ☒ Claim(s) 10 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/13/2006</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

*DETAILED ACTION*

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 11-14 and 16-21 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 6,386,075 to Shiao. Shiao discloses a tool handle comprising;

a stationary portion (10) mounted on a body of the tool; a mobile portion (20) comprising a hand grip member; and an articulation between the stationary and mobile portions, the articulation comprising: a pivot assembly (211, 40, 121) interconnecting the stationary and mobile portions; and a resilient vibration-damping assembly (30, 35, 122-124) interposed between the stationary and mobile portions to restrict angular movement of the mobile portion on the pivot assembly about the stationary portion substantially within a given angular range.

As to claims 2-4 and 18-20, a reciprocating movement of the damping assembly occurs within the body of the tool along a longitudinal or first direction of the handle when assembled. The pivot assembly defines a pivot axis (Fig. 3) substantially perpendicular to the first direction and the hand grip member is spaced apart (21) in a second direction generally perpendicular to the first direction.

As to claims 5, 7-9, 11-14 and 21, the stationary portion comprises a first arm member (12) parallel to the first direction defining a proximal end (13) fixedly connected to the tool and a distal end forming part of the articulation and the mobile portion comprises a second arm member (30) angularly spaced apart from the first arm member by an angle within a range of 75 to 130 degrees (Fig. 7). The second arm member comprises a proximal end (25) forming part of the articulation and a distal end at the hand grip. Further, the first arm member defines first and second opposite flat faces at (12) and a third end flat face (125). The second arm member comprises a hollow rectangular cavity (23) to receive the first arm member defining opposite inner walls (22) and a rear or bottom wall (26). First and second resilient members (321) are disposed between the opposite longitudinal flat faces and the inner walls. The resilient members comprise two pairs of parallel legs (32) defining first and second shoulders (31) at one end and opposite thick free ends extending between the opposite longitudinal flat faces, third end flat face and the inner walls as well.

***Allowable Subject Matter***

Claims 10 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Response to Applicant's Arguments*

Applicant's arguments filed in the Amendment of January 13, 2006 have been fully considered but they are not persuasive. Applicant's remarks on pages 8 and 9 state the prior art reference to Shiao fail to disclose or suggest all the limitations recited in applicant's claims. In particular, applicant states Shiao fails to disclose or suggest a resilient vibration damping assembly. Here, applicant is reminded that claims are given their broadest reasonable interpretation in light of applicant's specification. Thus, Shiao includes a spring element 35 that is resilient and operates as a dampening structure between elements 20 and 30 of Shiao's device. The point emphasized by applicant that the Shiao's device is not intended to dampen vibrations is germane to patentability because applicant's claims require a resilient vibration damping assembly (explained above) interposed between stationary and mobile parts 10 and 20 to restrict angular movement of the mobile part with respect to the stationary part within an angular range. These claim limitations are anticipated in view of the disclosure of Shiao within a broad but reasonable interpretation thereof. Further, the Examiner notes that as seen in Fig. 3 of Shiao, that the spring element may function to dampen vibrations (sliding contact) between elements 30 and 20 when the device of Shiao is fully assembled (Fig.5) thus accomplishing a noiseless hand tool device.

For the explanation and reasoning stated above, the Examiner believes applicant's arguments have been fully addressed and the prior art reference of Shiao does anticipate applicant's claims broadly as claimed, therefore the rejection over Shiao is maintained. Accordingly, claims 1-9, 11-14 and 16-21 are found to be unpatentable over Shiao. Claims 10 and 15 are objected to.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (571) 272-7067. The examiner can normally be reached on Mon. - Fri. (9:30 am - 6 pm).

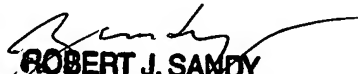
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3677

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André L. Jackson  
Patent Examiner  
AU 3677

ALJ

  
**ROBERT J. SANDY**  
**PRIMARY EXAMINER**